

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34695

STATE OF IDAHO,)	2008 Unpublished Opinion No. 498
)	
Plaintiff-Respondent,)	Filed: June 9, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
SCOTTY J. BAILEY,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Fred M. Gibler, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

PER CURIAM

While on probation for possessing child pornography, Scotty J. Bailey was charged with sexual abuse of a child under the age of sixteen and injury to a child. Pursuant to a plea agreement, Bailey pled guilty to injury to a child, I.C. § 18-1501, and was sentenced to a unified term of nine years with two years determinate. Bailey filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Bailey appeals, contending that the district court abused its discretion by denying his Rule 35 motion.

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by denying Bailey's Rule 35 motion for reduction of sentence. Accordingly, the order of the district court denying Bailey's Rule 35 motion is affirmed.